

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BOBBY D. COLBERT,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 2:24-cv-01439-DGE-

SKV

ORDER ON MOTION FOR RELIEF  
FROM JUDGMENT/JUDICIAL  
NOTICE

This matter comes before the Court on Petitioner's Motion for Relief From Order/Motion to Take Judicial Notice. (Dkt. No. 13.) On October 15, 2024, after Petitioner failed to object, this Court adopted the Report and Recommendation (R&R) of Magistrate Judge S. Kate Vaughan and dismissed this matter without prejudice. (Dkt. No. 11.)

Petitioner filed the present motion under Rule 60(b)(4). (*Id.*) Rule 60(b)(4) "applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard."

1 *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010) (internal citations  
2 omitted).


3       Petitioner’s motion (Dkt. No. 11) requests this court “vacate the Order Granting  
4 Application to Proceed In forma Pauperis as void order entered in violation of the Magistrate Act  
5 and the due process clause of the Fourteenth Amendment[.]” (Dkt. No. 11 at 1.) Petitioner  
6 argues Judge Vaughan did not have the authority to enter a final judgment on the motion to  
7 proceed in forma pauperis because the matter was not referred to her and the parties did not  
8 consent to the magistrate judge. (*Id.* at 2.) However, the Court by general order has referred to  
9 the Magistrate Judges all applications to proceed *in forma pauperis*. See W.D. Wash. General  
10 Order 12-24 para. 6 (Oct. 08, 2024) (modifying General Order 11-22). And, “it is well settled  
11 that a magistrate judge may grant a motion to proceed in forma pauperis, but ‘has no authority to  
12 issue a dispositive order denying in forma pauperis status absent compliance with section  
13 636(c).’” *Smith v. Officer Sergeant*, No. 215CV0979GEBDBP, 2016 WL 6875892, at \*1 (E.D.  
14 Cal. Nov. 21, 2016) (quoting *Tripati v. Rison*, 847 F.2d 548, 549 (9th Cir. 1988)).

15       Here, Judge Vaughan granted Petitioner’s motion to proceed *in forma pauperis*, thus, the  
16 magistrate judge acted within the confines of her authority. As such, Petitioner fails to show that  
17 the judgment is void because the court lacked subject matter jurisdiction, lacked jurisdiction over  
18 the parties, or acted in a matter inconsistent with due process that deprived a party of notice or  
19 the opportunity to be heard. *Espinosa*, 558 U.S. at 270–71. Accordingly, Petitioner is not  
20 entitled to relief under Rule 60(b)(4).

21       Petitioner’s motion for relief from judgment and request for judicial notice is denied.

22       Dated this 2nd day of January, 2025.

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David G. Estudillo  
United States District Judge